

201908006

Antonio Gonzalez

At about 2:00 in the morning on September 2, 2019, PO Antonio Gonzalez arrested a man for petit larceny and criminal possession of stolen property and took him to the 20th Precinct. At about 8:15 am, the man got into a verbal dispute with PO Gonzalez, and the man struck the plexiglass partition between the cell bars.

As captured by the precinct's internal cameras, PO Gonzalez then entered the cell, pushed the man in the chest, causing him to fall back and strike the wall of the holding cell, and then grabbed him by both hands and slammed him first against the wall of the cell, and then against the metal bars of the cell. Several officers, including PO Gonzalez's supervising Lieutenant, entered the cell to separate PO Gonzalez from the man.

When interviewed at the CCRB, PO Gonzalez stated that he was afraid that the man would break the plexiglass and use a shard as a weapon. He stated that his Lieutenant instructed him to enter the cell and handcuff the man. He testified that he did not "forcibly shove" the man, but that he placed one hand on the man's chest, at which point the man stumbled backwards.

The Lieutenant stated that he did not order PO Gonzalez to handcuff the man, and video shows that PO Gonzalez did not bring handcuffs into the holding cell. When shown the video that captured him pushing the man into a wall, then grabbing him with both hands and slamming him against the wall and the bars of the cell, PO Gonzalez stated that he had been trying to gain control of the man's arms. The video showed that the man was holding his hands, palms open, by his side when PO Gonzalez entered and slammed him against the wall.

The NYPD declined to discipline PO Gonzalez for this incident.

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Owen Godshall	Team: Squad #15	CCRB Case #: 201908006	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 09/02/2019 8:15 AM	Location of Incident: 20th Precinct stationhouse	Precinct: 20	18 Mo. SOL 3/2/2021	EO SOL 10/17/2021	
Date/Time CV Reported Mon, 09/02/2019 5:51 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 09/10/2019 11:04 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Antonio Gonzalez	21801	904050	020 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Genesis Bueno	05027	958343	020 PCT
2. POM Philip Anschick	31689	903350	020 PCT
3. LT Anthony Burgio	00000	926616	020 PCT

Officer(s)	Allegation	Investigator Recommendation
A . POM Antonio Gonzalez	Force: Police Officer Antonio Gonzalez used physical force against § 87(2)(b).	A . § 87(2)(g)
B . POM Antonio Gonzalez	Other: There is evidence suggesting Police Officer Antonio Gonzalez provided a false official statement in violation of PG 203-08.	B . § 87(2)(g)
C . POM Antonio Gonzalez	Other: There is evidence suggesting Police Officer Antonio Gonzalez provided a false official statement in violation of PG 203-08.	C . § 87(2)(g)

Case Summary

On September 2, 2019, § 87(2)(b) filed this complaint with IAB via telephone. On September 10, 2019, the complaint was forwarded to the CCRB via IAB log #2019-33383.

At approximately 2:04 a.m. on September 2, 2019, § 87(2)(b) was arrested for petit larceny and criminal possession of stolen property (Board Review #01). He was transported to the 20th Precinct stationhouse and lodged in a holding cell. At approximately 8:15 a.m., § 87(2)(b) got into a verbal dispute with his arresting officer, Police Officer Antonio Gonzalez. Police Officer Gonzalez entered the holding cell and repeatedly threw him against the cell's walls (**Allegation A: Force - Physical force, § 87(2)(g)**). Several officers, including Lieutenant Anthony Burgio, entered the holding cell to separate them.

The investigation also determined that Police Officer Gonzalez provided a false official statement in his memo book entry and during his CCRB interview (**Allegations B and C: Other – False official statement, § 87(2)(g)**).

The investigation obtained video footage from the 20th Precinct stationhouse, which is attached in IA #22 (Board Review #02) and summarized in IA #85 (Board Review #03). A subclip taken from this video is attached in IA #84 (Board Review #04).

Findings and Recommendations

Allegation (A) Force: Police Officer Antonio Gonzalez used physical force against § 87(2)(b)

§ 87(2)(b) provided a telephone statement on October 9, 2019 (Board Review #05). The investigation was unable to obtain a sworn statement from him (Board Review #06). Police Officer Gonzalez was interviewed at the CCRB on February 12, 2020. Lieutenant Burgio was interviewed at the CCRB on February 20, 2020.

A subclip taken from the 20th Precinct stationhouse's security cameras is attached in IA #84 (Board Review #04). At the start of the video, § 87(2)(b) is standing alone in a cell. Police Officer Gonzalez is standing outside the cell. There is no sound, but they are both speaking animatedly. § 87(2)(b) punches a Plexiglass partition between the cell's bars. At 0:13 into the recording, Police Officer Gonzalez reaches off-screen. At the same time, Lieutenant Burgio stands at the right edge of the screen and points towards § 87(2)(b). At 0:19 into the recording, Police Officer Gonzalez opens the cell door. Police Officer Gonzalez does not have a set of handcuffs with him. § 87(2)(b) is standing by the door with his palms open and held by his hips. As soon as Police Officer Gonzalez opens the door, he places both of his hands on § 87(2)(b)'s chest and pushes him backwards. The push moves § 87(2)(b) all the way to the opposite side of the cell. His back hits against the wall opposite the cell door. Police Officer Gonzalez then holds § 87(2)(b) against the wall by placing his left hand on § 87(2)(b)'s chest. § 87(2)(b) pushes Police Officer Gonzalez's hand away using his left hand. Police Officer Gonzalez then grabs § 87(2)(b) by his chest and slams him first against the wall of the cell, and then against the bars of the cell. Several officers, including Lieutenant Burgio and Police Officer Bueno enter the cell and separate § 87(2)(b) and Police Officer Gonzalez. No further force is seen on the video. Police Officer Gonzalez is not seen kicking § 87(2)(b).

§ 87(2)(b) stated that after he punched the Plexiglass barrier, Police Officer Gonzalez entered the holding cell. Police Officer Gonzalez then stepped on § 87(2)(b)'s toes and punched § 87(2)(b).

§ 87(2)(b) did not specify where Police Officer Gonzalez punched him or how many times Police Officer Gonzalez punched him. Several other officers then placed § 87(2)(b) in handcuffs. § 87(2)(b) suffered scabbing as a result of Police Officer Gonzalez striking him. He did not specify where the scabs were on his body. § 87(2)(b) was transported to Manhattan Central Booking. He eventually received treatment for his scabs at § 87(2)(b). § 87(2)(b) did not clarify whether he was still in police custody when he went to the hospital.

§ 87(2)(b) did not sign a HIPAA medical release form. His medical records therefore could not be obtained.

Police Officer Gonzalez stated that he was concerned that if § 87(2)(b) kept hitting the Plexiglass, he might break it and use one of its shards as a weapon. Lieutenant Burgio, the desk officer, told Police Officer Gonzalez to go into the cell and handcuff § 87(2)(b). He did not issue any other instructions at that time. Police Officer Gonzalez went to the cell's door. He did not state whether he had a set of handcuffs with him at the time. § 87(2)(b) told him, "Don't put your hands on me or I'll fuck you up." § 87(2)(b) then clenched his fists in front of him. He was standing about a foot away from the door at the time. Police Officer Gonzalez told § 87(2)(b) to step away from the door. § 87(2)(b) ignored this command. Police Officer Gonzalez then opened the cell door. He stepped into the cell and placed one of his hands in the center of § 87(2)(b)'s chest. He pushed § 87(2)(b) back about a foot. Police Officer Gonzalez denied that he forcibly shoved § 87(2)(b) at that time. He did, however, lose his balance, causing him to stumble forward. He did not fall down, but his forward momentum caused § 87(2)(b) to move further backwards, making contact with the cell wall behind him. Police Officer Gonzalez then told § 87(2)(b) to put his arms behind his back. § 87(2)(b) again ignored Police Officer Gonzalez's command. Lieutenant Burgio and Police Officer Philip Anschick then entered the holding cell. Lieutenant Burgio told § 87(2)(b) to calm down. § 87(2)(b) replied, "I know how to get back at the officer." Police Officer Gonzalez then left the holding cell. He did not see what happened to § 87(2)(b) afterwards. He did not know if § 87(2)(b) was injured. He denied making any physical contact with § 87(2)(b) beyond moving him backwards and then staggering into him. He did not recall forcibly slamming § 87(2)(b) against the walls or bars of the cell. He was not aware of § 87(2)(b) sustaining any physical injuries.

Police Officer Gonzalez was shown the stationhouse footage during his CCRB interview. When asked why he pushed § 87(2)(b) upon entering the cell, Police Officer Gonzalez stated that he did so because § 87(2)(b) had threatened to "fuck [him] up." When asked why he then slammed § 87(2)(b) into the cell's walls and bars, Police Officer Gonzalez stated that he was trying to gain control of § 87(2)(b)'s arms.

Lieutenant Burgio did not recall giving any instructions to Police Officer Gonzalez during the incident. He did not recall telling Police Officer Gonzalez to handcuff § 87(2)(b). Lieutenant Burgio stated that he stood at the entrance to the holding cell area when Police Officer Gonzalez spoke to § 87(2)(b). § 87(2)(b) complained that his arrest was not being processed in a timely manner. Police Officer Gonzalez replied that he would be moved from his cell soon. Lieutenant Burgio did not enter the room at that time because he was carrying his firearm at the time, and NYPD regulations forbid officers to bring weapons into holding cell rooms. Police Officer Gonzalez then opened the holding cell door to enter. Lieutenant Burgio then turned away from the holding cell in order to pass his firearm along to an unidentified officer standing in the next room. A few seconds later, he heard a commotion behind him. He did not recall if he heard § 87(2)(b) or Police Officer Gonzalez say anything while he was turned away. When he turned back to face the holding cell, he saw § 87(2)(b) and Police Officer Gonzalez standing in the rear-left corner of the cell. Lieutenant Burgio stated that Police Officer Gonzalez was trying to

gain physical control of § 87(2)(b) but he did not recall what kind of contact Police Officer Gonzalez made with § 87(2)(b) or what, if anything, § 87(2)(b) was doing at the time. Lieutenant Burgio denied seeing Police Officer Gonzalez push or shove § 87(2)(b) against a wall. He denied seeing any officer strike or kick § 87(2)(b). Lieutenant Burgio did not observe any injuries to § 87(2)(b). Lieutenant Burgio made no mention of § 87(2)(b) verbally or physically threatening Police Officer Gonzalez.

§ 87(2)(g)

Because the video does not have sound, it is unclear whether § 87(2)(b) made any threatening statements towards Police Officer Gonzalez. Police Officer Gonzalez forcibly pushed § 87(2)(b) repeatedly against the walls and bars of the cell. He did not stumble or lose his balance and did not reach for § 87(2)(b)'s hands. Police Officer Gonzalez did not kick § 87(2)(b). § 87(2)(b) pushed Police Officer Gonzalez's hand off his shoulder at one point, but otherwise offered no resistance. Since § 87(2)(b) did not sign a medical release form, it is unclear whether he suffered any physical injuries.

NYPD Patrol Guide procedure 221-01 states that an officer may use force when it is reasonable to ensure the safety of a member of service or another person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. Any application or use of force must be reasonable under the circumstances. Factors to consider in evaluating the use of force include the actions taken by the subject, the immediacy of the perceived threat or harm posed by the subject and whether the subject is actively resisting custody (Board Review #07).

§ 87(2)(g)

Allegation (B) Other Misconduct Noted: There is evidence suggesting Police Officer Antonio Gonzalez provided a false official statement in violation of PG 203-08.

Allegation (C) Other Misconduct Noted: There is evidence suggesting Police Officer Antonio Gonzalez provided a false official statement in violation of PG 203-08.

In his initial account of the incident during his CCRB interview, Police Officer Gonzalez stated that he only touched § 87(2)(b) once, when he placed a hand on § 87(2)(b)'s chest and moved him back about a foot. He denied forcibly shoving § 87(2)(b). He then momentarily lost his balance, causing his momentum to carry forward and push § 87(2)(b) further back, to the cell's far wall. He did not recall using further force.

Police Officer Gonzalez's memo book entry is generally consistent with his initial account to the CCRB. It states that § 87(2)(b) clenched his hands. The entry also states that Police Officer Gonzalez and § 87(2)(b) fell backwards, striking the cell's wall (Board Review #08).

Police Officer Gonzalez was then shown the video footage of the incident, in which he is seen repeatedly shoving § 87(2)(b) against a wall. He is not seen losing his balance. Police Officer Gonzalez stated that he initially pushed § 87(2)(b) against the wall because § 87(2)(b) had verbally threatened him. He then continued pushing § 87(2)(b) against the wall because he was

trying to gain control of § 87(2)(b)'s arms. Police Officer Gonzalez also acknowledged having viewed the video footage prior to his CCRB interview.

NYPD Patrol Guide procedure 203-08 states that an officer is prohibited from making a false official statement, and that an officer found to have made one will be subject to disciplinary action. In order to be considered misconduct, the statement must be proven to have been made, material, and intentionally false. Department of Corrections v. Centeno, OATH Index 2031-04 (2005) (Board Review #09-10).

§ 87(2)(g)
[REDACTED]

[REDACTED]

[REDACTED]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review #11).
- Police Officer Gonzalez has been a member of the service for 26 years and has been listed as a subject in 16 CCRB complaints and 39 allegations, none of which were substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- A Notice of Claim request was submitted to the NYC Office of the Comptroller on February 24, 2020. The results will be included in the case file upon receipt.
- § 87(2)(b)'s criminal case resulting from this arrest concluded on § 87(2)(b). He pleaded guilty to petit larceny and was given a conditional discharge (Board Review #12).

- § 87(2)(b)
[REDACTED]

(Board Review #12).

Squad No.: _____

Investigator:

Signature

Print Title & Name

Date

Squad Leader:

Signature

Print Title & Name

Date

Reviewer:

Signature

Print Title & Name

Date